

1 AN ACT in relation to public employee benefits.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Pension Code is amended by  
5 changing Sections 14-103.12, 16-133, and 16-140 as follows:

6 (40 ILCS 5/14-103.12) (from Ch. 108 1/2, par. 14-103.12)  
7 Sec. 14-103.12. Final average compensation.

8 (a) For retirement and survivor annuities, "final  
9 average compensation" means the monthly compensation obtained  
10 by dividing the total compensation of an employee during the  
11 period of: (1) the 48 consecutive months of service within  
12 ~~the last 120 months of service~~ in which the total  
13 compensation was the highest, or (2) the total period of  
14 service, if less than 48 months, by the number of months of  
15 service in such period; provided that for purposes of a  
16 retirement annuity the average compensation for the last 12  
17 months of the 48-month period shall not exceed the final  
18 average compensation by more than 25%.

19 (b) For death and disability benefits, in the case of a  
20 full-time employee, "final average compensation" means the  
21 greater of (1) the rate of compensation of the employee at  
22 the date of death or disability multiplied by 1 in the case  
23 of a salaried employee, by 174 in the case of an hourly  
24 employee, and by 22 in the case of a per diem employee, or  
25 (2) for benefits commencing on or after January 1, 1991,  
26 final average compensation as determined under subsection  
27 (a).

28 For purposes of this paragraph, full or part-time status  
29 shall be certified by the employing agency. Final rate of  
30 compensation for a part-time employee shall be the total  
31 compensation earned during the last full calendar month prior

1 to the date of death or disability.

2 (c) Notwithstanding the provisions of subsection (a),  
3 for the purpose of calculating retirement and survivor  
4 annuities of persons with at least 20 years of eligible  
5 creditable service as defined in Section 14-110, "final  
6 average compensation" means the monthly rate of compensation  
7 received by the person on the last day of eligible creditable  
8 service (but not to exceed 115% of the average monthly  
9 compensation received by the person for the last 24 months of  
10 service, unless the person was in service as a State  
11 policeman before the effective date of this amendatory Act of  
12 1997), or the average monthly compensation received by the  
13 person for the last 48 months of service prior to retirement,  
14 whichever is greater.

15 (d) Notwithstanding the provisions of subsection (a),  
16 for a person who was receiving, on the date of retirement or  
17 death, a disability benefit calculated under subdivision  
18 (b)(2) of this Section, the final average compensation used  
19 to calculate the disability benefit may be used for purposes  
20 of calculating the retirement and survivor annuities.

21 (e) In computing the final average compensation, periods  
22 of military leave shall not be considered.

23 (f) The changes to this Section made by this amendatory  
24 Act of 1997 (redefining final average compensation for  
25 members under the alternative formula) apply to members who  
26 retire on or after January 1, 1998, without regard to whether  
27 employment terminated before the effective date of this  
28 amendatory Act of 1997.

29 (Source: P.A. 90-65, eff. 7-7-97.)

30 (40 ILCS 5/16-133) (from Ch. 108 1/2, par. 16-133)  
31 Sec. 16-133. Retirement annuity; amount.

32 (a) The amount of the retirement annuity shall be the  
33 larger of the amounts determined under paragraphs (A) and (B)

1 below:

2 (A) An amount consisting of the sum of the  
3 following:

4 (1) An amount that can be provided on an  
5 actuarially equivalent basis by the member's  
6 accumulated contributions at the time of retirement;  
7 and

8 (2) The sum of (i) the amount that can be  
9 provided on an actuarially equivalent basis by the  
10 member's accumulated contributions representing  
11 service prior to July 1, 1947, and (ii) the amount  
12 that can be provided on an actuarially equivalent  
13 basis by the amount obtained by multiplying 1.4  
14 times the member's accumulated contributions  
15 covering service subsequent to June 30, 1947; and

16 (3) If there is prior service, 2 times the  
17 amount that would have been determined under  
18 subparagraph (2) of paragraph (A) above on account  
19 of contributions which would have been made during  
20 the period of prior service creditable to the member  
21 had the System been in operation and had the member  
22 made contributions at the contribution rate in  
23 effect prior to July 1, 1947.

24 (B) An amount consisting of the greater of the  
25 following:

26 (1) For creditable service earned before July  
27 1, 1998 that has not been augmented under Section  
28 16-129.1: 1.67% of final average salary for each of  
29 the first 10 years of creditable service, 1.90% of  
30 final average salary for each year in excess of 10  
31 but not exceeding 20, 2.10% of final average salary  
32 for each year in excess of 20 but not exceeding 30,  
33 and 2.30% of final average salary for each year in  
34 excess of 30; and

1           For creditable service earned on or after July  
2           1, 1998 by a member who has at least 24 years of  
3           creditable service on July 1, 1998 and who does not  
4           elect to augment service under Section 16-129.1:  
5           2.2% of final average salary for each year of  
6           creditable service earned on or after July 1, 1998  
7           but before the member reaches a total of 30 years of  
8           creditable service and 2.3% of final average salary  
9           for each year of creditable service earned on or  
10          after July 1, 1998 and after the member reaches a  
11          total of 30 years of creditable service; and

12           For all other creditable service: 2.2% of  
13          final average salary for each year of creditable  
14          service; or

15           (2) 1.5% of final average salary for each year  
16          of creditable service plus the sum \$7.50 for each of  
17          the first 20 years of creditable service.

18          The amount of the retirement annuity determined under  
19          this paragraph (B) shall be reduced by 1/2 of 1% for each  
20          month that the member is less than age 60 at the time the  
21          retirement annuity begins. However, this reduction shall  
22          not apply (i) if the member has at least 35 years of  
23          creditable service, or (ii) if the member retires on  
24          account of disability under Section 16-149.2 of this  
25          Article with at least 20 years of creditable service, or  
26          (iii) if the member (1) has earned during the period  
27          immediately preceding the last day of service at least  
28          one year of contributing creditable service as an  
29          employee of a department as defined in Section 14-103.04,  
30          (2) has earned at least 5 years of contributing  
31          creditable service as an employee of a department as  
32          defined in Section 14-103.04, (3) retires on or after  
33          January 1, 2001, and (4) retires having attained an age  
34          which, when added to the number of years of his or her

1 total creditable service, equals at least 85. Portions  
2 of years shall be counted as decimal equivalents.

3 (b) For purposes of this Section, "final average salary"  
4 means shall-be the average salary for the 48 consecutive  
5 months of service in which the total salary was the highest,  
6 ~~4-consecutive-years-within-the-last-10-years-of-creditable~~  
7 ~~service~~ as determined under rules of the board. The minimum  
8 final average salary shall be considered to be \$2,400 per  
9 year.

10 In the determination of final average salary for members  
11 other than elected officials and their appointees when such  
12 appointees are allowed by statute, that part of a member's  
13 salary for any year beginning after June 30, 1979 which  
14 exceeds the member's annual full-time salary rate with the  
15 same employer for the preceding year by more than 20% shall  
16 be excluded. The exclusion shall not apply in any year in  
17 which the member's creditable earnings are less than 50% of  
18 the preceding year's mean salary for downstate teachers as  
19 determined by the survey of school district salaries provided  
20 in Section 2-3.103 of the School Code.

21 (c) In determining the amount of the retirement annuity  
22 under paragraph (B) of this Section, a fractional year shall  
23 be granted proportional credit.

24 (d) The retirement annuity determined under paragraph  
25 (B) of this Section shall be available only to members who  
26 render teaching service after July 1, 1947 for which member  
27 contributions are required, and to annuitants who re-enter  
28 under the provisions of Section 16-150.

29 (e) The maximum retirement annuity provided under  
30 paragraph (B) of this Section shall be 75% of final average  
31 salary.

32 (f) A member retiring after the effective date of this  
33 amendatory Act of 1998 shall receive a pension equal to 75%  
34 of final average salary if the member is qualified to receive

1 a retirement annuity equal to at least 74.6% of final average  
2 salary under this Article or as proportional annuities under  
3 Article 20 of this Code.

4 (Source: P.A. 90-582, eff. 5-27-98; 91-17, eff. 6-4-99;  
5 91-887, eff. 7-6-00; 91-927, eff. 12-14-00.)

6 (40 ILCS 5/16-140) (from Ch. 108 1/2, par. 16-140)  
7 Sec. 16-140. Survivors' benefits - definitions.

8 (a) For the purpose of Sections 16-138 through 16-143.2,  
9 the following terms shall have the following meanings, unless  
10 the context otherwise requires:

11 (1) "Average salary": the average salary for the 48  
12 consecutive months of service in which the total salary  
13 was the highest 4-consecutive-years-within--the--last--10  
14 years-of-creditable-service-immediately-preceding-date-of  
15 death--or--retirement,--whichever--is--applicable, or the  
16 average salary for the total period of creditable service  
17 if service is less than 4 years.

18 (2) "Member": any teacher included in the  
19 membership of the system. However, a teacher who becomes  
20 an annuitant of the system or a teacher whose services  
21 terminate after 20 years of service from any cause other  
22 than retirement is considered a member, subject to the  
23 conditions and limitations stated in this Article.

24 (3) "Dependent beneficiary": (A) a surviving spouse  
25 of a member or annuitant who was married to the member or  
26 annuitant for the 12 month period immediately preceding  
27 and on the date of death of such member or annuitant,  
28 except where a child is born of such marriage, in which  
29 case the qualifying period shall not be applicable; (A-1)  
30 a surviving spouse of a member or annuitant who (i) was  
31 married to the member or annuitant on the date of the  
32 member or annuitant's death, (ii) was married to the  
33 member or annuitant for a period of at least 12 months

1 (but not necessarily the 12 months immediately preceding  
2 the member or annuitant's death), and (iii) has not  
3 received a benefit under subsection (a) of Section 16-141  
4 or paragraph (1) of Section 16-142; (B) an eligible child  
5 of a member or annuitant; and (C) a dependent parent.

6 Unless otherwise designated by the member,  
7 eligibility for benefits shall be in the order named,  
8 except that a dependent parent shall be eligible only if  
9 there is no other dependent beneficiary. Any benefit to  
10 be received by or paid to a dependent beneficiary to be  
11 determined under this paragraph as provided in Sections  
12 16-141 and 16-142 may be received by or paid to a trust  
13 established for such dependent beneficiary if such  
14 dependent beneficiary is living at the time such benefit  
15 would be received by or paid to such trust.

16 (4) "Eligible child": an unmarried natural or  
17 adopted child of the member or annuitant under age 18  
18 (age 22 if a full-time student). An unmarried natural or  
19 adopted child, regardless of age, who is dependent by  
20 reason of a physical or mental disability, except any  
21 such child receiving benefits under Article III of the  
22 Illinois Public Aid Code, is eligible for so long as such  
23 physical or mental disability continues. An adopted  
24 child, however, is eligible only if the proceedings for  
25 adoption were finalized while the child was a minor.

26 For purposes of this subsection, "disability" means  
27 an inability to engage in any substantial gainful  
28 activity by reason of any medically determinable physical  
29 or mental impairment which can be expected to result in  
30 death or which has lasted or can be expected to last for  
31 a continuous period of not less than 12 months.

32 The changes made to this Section by Public Act  
33 90-448, relating to benefits for certain unmarried  
34 children who are full-time students under age 22, apply

1 without regard to whether the deceased member was in  
2 service on or after the effective date of that Act.  
3 These changes do not authorize the repayment of a refund  
4 or a re-election of benefits, and any benefit or increase  
5 in benefits resulting from these changes is not payable  
6 retroactively for any period before the effective date of  
7 that Act.

8 (5) "Dependent parent": a parent who was receiving  
9 at least 1/2 of his or her support from a member or  
10 annuitant for the 12-month period immediately preceding  
11 and on the date of such member's or annuitant's death,  
12 provided however, that such dependent status terminates  
13 upon a member's acceptance of a refund for survivor  
14 benefit contributions as provided under Section 16-142.

15 (6) "Non-dependent beneficiary": any person,  
16 organization or other entity designated by the member who  
17 does not qualify as a dependent beneficiary.

18 (7) "In service": the condition of a member being  
19 in receipt of salary as a teacher at any time within 12  
20 months immediately before his or her death, being on  
21 leave of absence for which the member, upon return to  
22 teaching, would be eligible to purchase service credit  
23 under subsection (b)(5) of Section 16-127, or being in  
24 receipt of a disability or occupational disability  
25 benefit. This term does not include any annuitant or  
26 member who previously accepted a refund of survivor  
27 benefit contributions under paragraph (1) of Section  
28 16-142 unless the conditions specified in subsection (b)  
29 of Section 16-143.2 are met.

30 (b) The change to this Section made by Public Act 90-511  
31 applies without regard to whether the deceased member or  
32 annuitant was in service on or after the effective date of  
33 that Act.

34 The change to this Section made by this amendatory Act of

1 the 91st General Assembly applies without regard to whether  
2 the deceased member or annuitant was in service on or after  
3 the effective date of this amendatory Act.

4 (Source: P.A. 90-448, eff. 8-16-97; 90-511, eff. 8-22-97;  
5 90-655, eff. 7-30-98; 91-887, eff. 7-6-00.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.